

**SUBCHAPTER F : REGISTRATION, CERTIFICATION AND/OR
TRAINING REQUIREMENTS FOR INSTALLERS, APPRENTICES,
SITE EVALUATORS OR DESIGNATED REPRESENTATIVES**

§285.50. General Requirements for Registration and Certification.

(a) The purpose of this section is to set forth a statewide uniform procedure for the training and registration of installers of OSSFs and training and certification of site evaluators and designated representatives and to assist individuals employed or seeking employment in the OSSF industry in meeting the educational and testing requirements for obtaining registration or certification.

(b) No individual shall install, construct, alter, extend, or repair an OSSF unless the individual holds a valid certification issued by the executive director or is expressly exempted from the installer's certification or registration requirements.

(c) No individual may represent himself or herself as an installer, site evaluator, or designated representative unless they possess a valid agency certificate for that profession.

(d) In addition to the requirements of this section, an installer shall comply with all requirements of this title and be responsible for the proper installation of all OSSFs installed under the installer's registration or certification.

(e) No individual shall work under an installer's certificate unless said individual is an apprentice of that installer or under direct supervision of that installer or the apprentice at the jobsite. Apprentices will be issued a registration card in accordance with §285.60 of this title (relating to Apprentice Program).

(f) The installer shall directly supervise all individuals working under the installer's certificate during the installation, construction, alteration, or repair of the OSSF and shall be present on the jobsite during each major phase, or may be represented by his or her apprentice.

(g) When required by the permitting authority, the installer or apprentice must be present at the job-site during the inspection or re-inspection of the OSSF.

(h) The executive director may allow reciprocity for an installer with a valid certificate from another state having certification requirements substantially equivalent to those of this state.

(i) Individuals who act in any capacity for a permitting authority which has jurisdiction over OSSFs shall not work as an installer or private site evaluator in that permitting authority's area of jurisdiction.

(j) Beginning 540 days after the effective date of this chapter, no individual shall be employed or compensated by an authorized agent as a designated representative without being registered with the executive director and possessing a valid designated representative's certificate.

(k) Beginning 540 days after the effective date of this chapter, no individual shall be compensated as a site evaluator conducting pre-construction site evaluation or soil analysis without being registered with the executive director and possessing a valid site evaluator's certificate.

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§285.51. Exceptions to Registration/Certification Requirements.

A single family residential property owner shall not be subject to the training and registration requirements when installing, constructing, altering, extending or repairing an OSSF on his or her property. However, the permitting authority must be contacted prior to construction of the OSSF regarding any permitting requirements to insure compliance with the commission's criteria or such criteria duly established by the authorized agent. The homeowner shall not compensate any person to perform any phase of the OSSF installation work where the individual performing the work is not a registered installer of the correct level. An exception shall be made for installation of electrical components by a licensed electrician where required.

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§285.52. Administration.

The executive director shall be responsible for the administration and management of the certification and registration of installers, apprentices, site evaluators, and designated representatives. This administration includes:

- (1) accepting and reviewing applications to determine if qualifications are met and notifying applicants as to action taken;
- (2) preparing and administering examinations;
- (3) scoring examinations and promptly notifying applicants as to the results;
- (4) issuing and renewing registrations and certifications;
- (5) publishing of a roster with semi-annual updates of apprentices, installers, site evaluators, and designated representatives holding valid registration or certification;
- (6) maintaining training records of installers, site evaluators, and designated representatives;
- (7) approving training schools, courses, and instructors for registration and certification purposes; and
- (8) collecting fees.

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§285.53. Applications.

(a) Applications for registration or certification shall be made on a standard form provided by the executive director or designee.

(b) Each applicant shall submit a non-refundable application fee in accordance with §285.57 of this title (relating to Fees).

(c) The applicant shall furnish evidence of any training credit or any other information pertaining to the license or renewal.

(d) Applicants shall meet the qualifications and training requirements established in this subchapter before taking the examination.

(e) An application is valid for 12 months from the initial date of the examination.

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§285.54. Qualifications.

(a) All applicants shall be required to successfully complete the educational training program provided by or for the executive director in accordance with §285.59 of this title (relating to Training).

(b) Only training that has been approved by the executive director is acceptable for registration or certification.

(c) All applicants for installer registration shall be required to pass an examination covering the field of OSSFs.

(d) Installer I qualifications:

(1) beginning 540 days after the effective date of this chapter, an applicant shall have at least one year of experience as a registered apprentice under the supervision of an Installer I or Installer II holding a valid certificate;

(2) successful completion of the Installer I training course; and

(3) must pass the Installer I examination.

(e) An Installer I is qualified to install, construct, alter, extend, or repair standard OSSFs as described in §285.91(9) of this title (relating to Tables). These systems consist of conventional trench drainfields, unlined ET beds, as well as the proprietary systems utilizing gravel-less pipe drainfields and leaching chambers.

(f) Installer II qualifications:

(1) must possess an Installer I certificate;

(2) have at least two years of verified experience in OSSF installation, construction, extension, alteration, and/or repair under said certification;

- (3) must successfully complete the Installer II training course; and
- (4) must pass the Installer II examination.
- (g) An Installer II is qualified to install, construct, alter, extend, or repair all types of OSSFs.
- (h) Beginning 540 days after the effective date of this chapter, an installer shall no longer operate as an Installer II without meeting all the requirements set forth in this subchapter.
- (i) All applicants for certification as a site evaluator or designated representative shall be required to pass an examination covering the field of OSSF installation, construction, repair, operation, disposal, planning, maintenance, soil analysis, site evaluation, and program administration.
- (j) Designated representative qualifications. Each individual appointed, employed, or compensated by a permitting authority having duties and responsibilities for the regulation and inspection of OSSFs shall be required to take and complete designated representative training and pass an examination for designated representatives. A designated representative is not required to hold a separate site evaluator certificate provided the individual only performs duties and responsibilities required by the permitting authority. If the individual leaves the employment of the permitting authority, or works as a site evaluator in another area of jurisdiction, a site evaluator certificate must be obtained in order for the individual to conduct preconstruction site evaluations.
- (k) Site evaluator qualifications:
 - (1) must have two years of verifiable experience in the OSSF field and possess an Installer II certificate, designated representative certificate, registered sanitarian certificate, or professional engineer registration;
 - (2) must successfully complete the site evaluator training course; and
 - (3) must pass the Site Evaluator examination.
 - (4) A site evaluator is qualified to conduct preconstruction site evaluation which includes performing soil analysis, a site survey, and other criteria necessary to determine the suitability of a site for a specific OSSF.

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§285.55. Examinations.

- (a) An applicant shall take an examination for an Installer (I or II), Designated Representative, or Site Evaluator certificate after presenting qualifications acceptable to the executive director. The passing score for an examination shall be 70%. The examinee shall be informed, in writing only, as to the results of the examination.

(b) Any applicant who fails an examination may repeat the examination after waiting 60 days and paying the reexamination fee in accordance with §285.57 of this title (relating to Fees). The examination may be repeated not more than three times in a given 12-month period.

(c) Following the failure of the examination, the initial application shall be held by the executive director for not more than 12 months from the initial date of the examination. If after the 12-month period, the applicant has not passed the examination, the application will be deemed invalid and he or she must submit a new application with the appropriate fee and repeat the appropriate training course before taking the examination again.

(d) Examinations shall be given at places and times approved by the executive director. Examinations shall be graded and the results shall be forwarded to the applicant no later than 45 days after the examination date.

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§285.56. Certificates/Renewal Applications.

(a) Issuance of certificate.

(1) Upon satisfactory fulfillment of the requirements provided in this subchapter, the appropriate installer, designated representative, or site evaluator certificate shall be issued by the executive director.

(2) The installer, designated representative, or site evaluator shall inform the executive director in writing of any change in address and phone number during the validity period of the certificate. All certificates expire on August 31 of each year.

(3) The authorized agent shall notify the executive director in writing of any change in job status of its designated representative.

(4) An installer, designated representative, or site evaluator certification will be issued to individuals only and will not be transferable.

(5) The issuance of a certificate shall not be construed by any individual that the commission or the executive director is responsible for the performance of the certificate holder.

(6) When an Installer I passes the Installer II examination, the lower level certificate becomes invalid and the individual is issued an Installer II certificate.

(b) Renewal application procedure.

(1) At least 30 days prior to the expiration date of the certificate, the executive director or designee shall mail to the installer, designated representative, or site evaluator a renewal application showing the expiration date and fee to be paid.

(2) The executive director or designee shall mail the renewal application to the installer, designated representative, or site evaluator at the most recent address provided to the executive director.

(3) It is the responsibility of the installer, designated representative, or site evaluator to make sure the renewal application and the renewal fee along with proof of the continuing educational course requirements are returned to the executive director or designee by the August 31 deadline.

(4) Upon the applicant's satisfactory fulfillment of the requirements for renewal provided in this section, an appropriate certificate renewal will be issued by the executive director.

(5) If an installer, designated representative, or site evaluator needs a duplicate certificate, the executive director shall upon request issue another certificate to the individual for a duplicate certificate fee in accordance with §285.57 of this title (relating to Fees).

(6) Applications for renewal shall be made according to this subchapter and on forms which may be obtained from the executive director.

(c) Denial of Certificate and Registration. The executive director or designee may deny a certificate or a registration for the following grounds:

(1) when an applicant fails to submit the required documentation as required by §285.50 of this title (relating to General Requirements for Registration and Certification);

(2) when an applicant fails to pay the appropriate fee as required under §285.57 of this title (relating to Fees);

(3) when an applicant submits an application with fraudulent or deceptive information; or

(4) for other cause(s) which in the opinion of the executive director constitute adequate ground(s) for denial.

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§285.57. Fees.

(a) The fees applicable to the registration and certification program administered by the executive director shall be as follows:

(1) Application fee - \$75

(2) Installer Renewal Fee - \$75

(3) Site Evaluator Renewal Fee - \$75, a registered professional engineer or registered sanitarian in good standing in Texas is exempt from the application/examination and renewal fees.

(4) Designated Representative Renewal Fee - \$50

(5) Combination Installer II and Site Evaluator Renewal Fee - \$125

(6) Late Fee - Any individual failing to make payment of fees when due will be assessed late payment penalties and interest at the maximum rates established for delinquent taxes under Texas Tax Code, §111.060(a) and (b) and §111.061.

(7) Apprentice Registration/Renewal Fee - \$25

(8) Duplicate Certificate Fee - \$20

(9) Renewal/Late Fees

(A) If an installer's, designated representative's, or site evaluator's certification has not been renewed by August 31, the individual may renew the certification by submitting to the executive director the renewal fee in addition to a late fee and providing proof of the continuing educational course requirements. If an installer has not renewed his or her certificate in accordance with this section, the executive director shall terminate the registration of all apprentices registered under that installer's supervision.

(B) If an installer, designated representative or site evaluator renews after August 31, and their certification has been expired less than two years, the installer, designated representative, or site evaluator must pay all delinquent renewal and late fees and provide proof of the continuing educational course requirements to the executive director to obtain a current OSSF installer, designated representative, or site evaluator certification.

(C) If an installer's, designated representative's, or site-evaluator's certification has been expired for two years or more, the person may not renew the certification. The individual may obtain a new certification by taking the executive director-approved training course, submitting to reexamination, and complying with all other requirements and procedures for obtaining an original certification.

(b) An applicant shall pay all required fees before receiving a certificate. All fees shall be paid by personal check, cashier's check, or by money order. Cash cannot be accepted for payment of fees. If the applicant does not submit the appropriate payment with the new or renewal application, the certificate shall not be issued. The application fee for registration or certification shall not be prorated.

(c) All fees shall be made payable to the Texas Natural Resource Conservation Commission, and are not refundable.

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§285.58. Duties and Responsibilities.

(a) An installer shall:

(1) use reasonable care, judgement, or application of his or her knowledge in the performance of his or her duties;

- (2) not practice theft, fraud, or deceit in the application of his or her duties;
 - (3) obtain the necessary permitting authority's authorization before beginning to install, construct, alter, extend, or repair an OSSF;
 - (4) not falsify information on any application or any other documentation;
 - (5) install the OSSF that is authorized by the permitting authority;
 - (6) install, construct, alter, extend, or repair the OSSF to meet the minimum criteria found in this chapter or more stringent design criteria of an authorized agent;
 - (7) use the proper materials in the installation, construction, alteration, extension, or repair of an OSSF;
 - (8) be present during all phases of installation, construction, alteration, extension, or repair of the OSSF at the jobsite or represented by the installer's apprentice;
 - (9) visit the jobsite at least once during each work day to verify the work performed by any apprentice under the installer's registration;
 - (10) not abandon, without just cause, an OSSF during the installation, construction, alteration, extension, or repair before or after the final inspection. The failure of an installer to perform work without just cause for 30 consecutive days shall constitute an abandoned project;
 - (11) call for the required inspection(s) from the permitting authority; and
 - (12) not alter the OSSF after the final inspection.
- (b) A designated representative shall:
- (1) use reasonable care, judgment, or application of knowledge in the performance of his or her duties;
 - (2) not practice theft, fraud, or deceit in the application of his or her duties;
 - (3) enforce the rules and regulations of the permitting authority's OSSF program;
 - (4) maintain accurate records of permitting, inspections, and nuisance complaints;
 - (5) investigate and resolve nuisance complaints;
 - (6) not knowingly accept falsified information on any permit application or other documentation;

(7) only receive compensation for OSSF-related services directly from the authorized agent or in accordance with a signed contract with the authorized agent;

(8) verify that an individual is an installer possessing a valid certification and the correct classification for installing, constructing, altering, extending, or repairing that particular OSSF before the initial inspection;

(9) perform a satisfactory and valid final inspection of an OSSF at the job site to verify that minimum criteria of this chapter or the more stringent criteria of the authorized agent has been met;

(10) verify the existence of an adequate maintenance contract between the property owner and the maintenance company, if required; and

(11) not operate as a registered installer while employed or compensated by the permitting authority within their area of jurisdiction.

(c) A site evaluator shall:

(1) use reasonable care, judgement, or application of his or her knowledge in the performance of his or her duties; and

(2) not practice theft, fraud, or deceit in the application of his or her duties;

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§285.59. Training.

All training credits and instructors shall be approved by the executive director.

(1) Training credit shall be based upon recorded attendance. The applicant is expected to attend at least 95 percent of the course hours. If the applicant attends less than the minimum 95 percent of the course hours, then he or she will not receive credit for having completed the course.

(2) The basic training required for the Installer I certificate shall cover specific knowledge regarding the basic treatment and disposal of wastewater. The training will offer instruction to applicants on rules, regulations, permitting, an introduction to using soils for wastewater treatment, wastewater characteristics and operation, installation, and construction of basic or conventional OSSFs utilizing standard subsurface treatment and disposal methods. The applicant shall also be familiar with distribution mechanisms and shall have the ability to make calculations, determine slope, and be familiar with the use of a leveling device.

(3) The advanced training required for the Installer II certificate shall cover specific knowledge regarding the subsurface treatment and disposal of wastewater. The training will offer instruction to applicants on installation, construction, and maintenance of alternative, standard, non-standard or proprietary OSSFs using non-standard treatment and disposal methods, ground-water protection practices,

basic soil analysis, and site evaluation. The applicant shall also be familiar with distribution mechanisms and shall have the ability to make calculations and measure water flow rates.

(4) The training required for the designated representative's or site evaluator's certificate shall cover specific knowledge regarding the subsurface treatment and disposal of wastewater, concepts and theory of OSSF systems, operations, installation, construction, and maintenance of all types of OSSFs, soil analysis and site evaluation, ground-water, regulatory operations, health laws, and the judicial system as it relates to OSSF enforcement. The applicant shall also be familiar with wastewater characteristics, distribution mechanisms, shall have the ability to make calculations, measure water flow rates, be able to operate different surveying equipment, and be acquainted with the proper inspection procedures, as well as having the ability to keep records.

(5) An individual holding an installer, designated representative, and/or site evaluator certificate must successfully complete a minimum of eight hours of continuing education training approved by the executive director prior to August 31 of each year in order to renew their certificate.

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§285.60. Apprentice Program.

(a) An individual who wishes to undertake a training program under the supervision of an installer holding a valid certificate under this chapter shall register with the executive director and provide proof that the supervising installer has agreed to accept the responsibility for the apprentice.

(b) A registration form and annual fee must be submitted by an installer for each individual desiring to register as an apprentice under his or her supervision. Registration shall be on forms which may be obtained from the executive director and shall include:

- (1) the name, business address, and permanent mailing address of the apprentice;
- (2) the name and business address of the installer who will supervise the apprentice;
- (3) a detailed description of the apprentice program as set by the supervising installer;
- (4) the effective commencement and termination dates of the apprentice training program (no apprentice program may be shorter in duration than one year);
- (5) a statement by the supervising installer that he or she accepts financial responsibility for the activities of the apprentice undertaken on behalf of the installer; and
- (6) the signatures of the apprentice and the supervising installer and a notarized statement from each that the information provided is true and correct.

(c) Commencement of the apprentice registration will take place upon receipt of the completed apprentice application and fee by the executive director. The executive director shall notify the apprentice

and the supervising installer that the apprentice has been accepted as a registered apprentice and that the registration form shall remain in the agency's files for the stated duration of the apprentice period.

(d) The registration of an apprentice shall remain on file only for the stated duration of the period specified in the application. Upon completion of the apprentice training period, an apprentice may decide to apply to the executive director to obtain certification as an installer. Either the supervising installer or the apprentice may terminate the apprentice training program by written notice to the executive director. No reason for termination is required, and upon receipt of a letter stating that the apprentice training program has been terminated, the executive director shall terminate the apprentice's registration status.

(e) An apprentice shall:

(1) represent his supervising installer during operations at the site; and

(2) perform services associated with OSSF installation or repairs under direct supervision of an installer by directions on-site or by radio or other direct communication at all times.

(f) It is unlawful for an apprentice to act as or to offer to perform services as an installer on their own behalf. An apprentice may not perform any services associated with OSSF installation except under the supervision of an installer holding a valid certificate and/or according to the supervising installer's expressed directions. An apprentice's registration may be revoked if the apprentice is found to have engaged in prohibited activities.

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§285.61. Revocation, Suspension, or Reinstatement of Certificate and Registration.

(a) If the executive director determines good cause exists to suspend or revoke a certificate of a site evaluator or designated representative, or a registration of an installer or apprentice, the executive director shall request that the commission schedule a hearing before the State Office of Administrative Hearings or the commission. Such hearing shall be held only after proper notice has been provided to the certificate holder or registrant. The commission may suspend or revoke the certificate or the registration if the commission finds that the certificate holder or registrant was responsible for violating the provisions of this chapter, for falsifying any information or documents submitted to the executive director, or for other good cause.

(b) A certificate or registration may be suspended for a period of up to one year, depending upon the seriousness of the offense(s). A certificate or registration is revoked automatically upon a second suspension. At the request of the certificate holder or registrant, or for other good cause shown, the certificate or registration may be suspended indefinitely by the commission.

(c) A certificate or registration may be permanently revoked by the commission, or may be revoked for a term designated by the commission. If the certificate or registration is revoked for a term designated by the commission, then the certificate holder or registrant may apply for a new certificate or registration, in accordance with §285.53 of this title (relating to Applications), upon the expiration of the term of revocation.

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§285.62. Hearings.

(a) Notice for any hearing required by §285.61 of this title (relating to Revocation, Suspension or Reinstatement of Certificate and Registration) shall be issued not less than ten days prior to the hearing.

(b) Transmittal of the notice shall be by certified mail, return receipt requested.

(c) Persons to be notified include, but are not limited to, the following:

(1) the registrant or certificate holder;

(2) the complainant (if any); and

(3) any other person who may be affected by the outcome of the hearing, as determined by the executive director.

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§285.63. Type of Hearing.

Any hearing related to the suspension or revocation of a certificate or registration is subject to the Administrative Procedure Act (Texas Government Code, Ann. §2001.001 et. seq.).

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